

1 SENATE BILL NO. 209

2 INTRODUCED BY TESTER, PATTISON, BALYEAT, BARRETT, D. BROWN, BRUEGGEMAN, DEVLIN,
3 ELLINGSON, ESP, EVERETT, FACEY, FISHER, HARRINGTON, HEDGES, JACKSON, JACOBSON,
4 KASTEN, NELSON, RIPLEY, ROSS, STAPLETON, STEINBEISSER, STOKER, WANZENRIED, WITT,
5 MALCOLM, MUSGROVE, SALES

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND
8 PARKS TO PUBLISH AN ANNUAL COUNT OF GAME ANIMALS, INCLUDING THE BASIS UPON WHICH THE
9 GAME COUNT WAS MADE; AMENDING SECTION 87-1-201, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 87-1-201, MCA, is amended to read:

15 **"87-1-201. (Temporary) Powers and duties.** (1) The department shall supervise all the wildlife, fish,
16 game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state and may
17 implement voluntary programs that encourage hunting access on private lands and that promote harmonious
18 relations between landowners and the hunting public. It possesses all powers necessary to fulfill the duties
19 prescribed by law and to bring actions in the proper courts of this state for the enforcement of the fish and game
20 laws and the rules adopted by the department.

21 (2) The department shall enforce all the laws of the state respecting the protection, preservation, and
22 propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

23 (3) The department has the exclusive power to spend for the protection, preservation, and propagation
24 of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that
25 purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or
26 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from
27 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the
28 department from any other sources is appropriated to and under control of the department.

29 (4) The department may discharge any appointee or employee of the department for cause at any time.

30 (5) The department may dispose of all property owned by the state used for the protection, preservation,

1 and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or
2 use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish
3 and game account in the state special revenue fund.

4 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
5 appointed officers or wardens.

6 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations
7 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

8 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
9 of bear within or outside of the state.

10 (9) (a) The department shall implement programs that:

11 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing
12 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; and

13 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
14 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
15 maintenance or recovery of those species.

16 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
17 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
18 recovery of those species with the social and economic impacts of species maintenance or recovery.

19 (c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
20 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

21 (10) The department shall publish an annual game count, estimating to the department's best ability the
22 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
23 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
24 reporting statistics, or any other suitable method of determining game numbers. The publication must include
25 an explanation of the basis used in determining the game count. (Terminates March 1, 2006--sec. 6, Ch. 544,
26 L. 1999.)

27 **87-1-201. (Effective March 1, 2006) Powers and duties.** (1) The department shall supervise all the
28 wildlife, fish, game, game and nongame birds, waterfowl, and the game and fur-bearing animals of the state.
29 It possesses all powers necessary to fulfill the duties prescribed by law and to bring actions in the proper courts
30 of this state for the enforcement of the fish and game laws and the rules adopted by the department.

1 (2) The department shall enforce all the laws of the state respecting the protection, preservation, and
2 propagation of fish, game, fur-bearing animals, and game and nongame birds within the state.

3 (3) The department has the exclusive power to spend for the protection, preservation, and propagation
4 of fish, game, fur-bearing animals, and game and nongame birds all state funds collected or acquired for that
5 purpose, whether arising from state appropriation, licenses, fines, gifts, or otherwise. Money collected or
6 received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from
7 fines or damages collected for violations of the fish and game laws, or from appropriations or received by the
8 department from any other sources is appropriated to and under control of the department.

9 (4) The department may discharge any appointee or employee of the department for cause at any time.

10 (5) The department may dispose of all property owned by the state used for the protection, preservation,
11 and propagation of fish, game, fur-bearing animals, and game and nongame birds that is of no further value or
12 use to the state and shall turn over the proceeds from the sale to the state treasurer to be credited to the fish
13 and game account in the state special revenue fund.

14 (6) The department may not issue permits to carry firearms within this state to anyone except regularly
15 appointed officers or wardens.

16 (7) The department is authorized to make, promulgate, and enforce reasonable rules and regulations
17 not inconsistent with the provisions of chapter 2 that in its judgment will accomplish the purpose of chapter 2.

18 (8) The department is authorized to promulgate rules relative to tagging, possession, or transportation
19 of bear within or outside of the state.

20 (9) (a) The department shall implement programs that:

21 (i) manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing
22 under 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq.; and

23 (ii) manage listed species, sensitive species, or a species that is a potential candidate for listing under
24 87-5-107 or under the federal Endangered Species Act, 16 U.S.C. 1531, et seq., in a manner that assists in the
25 maintenance or recovery of those species.

26 (b) In maintaining or recovering a listed species, a sensitive species, or a species that is a potential
27 candidate for listing, the department shall seek, to the fullest extent possible, to balance maintenance or
28 recovery of those species with the social and economic impacts of species maintenance or recovery.

29 (c) This subsection (9) does not affect the ownership or possession, as authorized under law, of a
30 privately held listed species, a sensitive species, or a species that is a potential candidate for listing.

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2 numbers of each species of game animal, as defined in 87-2-101, in the hunting districts and administrative
3 regions of the state. In preparing the publication, the department may incorporate field observations, hunter
4 reporting statistics, or any other suitable method of determining game numbers. The publication must include
5 an explanation of the basis used in determining the game count."

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7 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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